

**In the United States Court of Federal Claims**

**OFFICE OF SPECIAL MASTERS**

**No. 14-661V**

**Filed: October 29, 2014**

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PATRICIA ELLIOT

Petitioner,

v.

SECRETARY OF HEALTH  
AND HUMAN SERVICES,

Respondent.

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Ruling on Entitlement; Concession;  
Influenza Vaccine; Shoulder Injury  
Related to Vaccine Administration  
("SIRVA")

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Marvin Firestone, MD, JD & Associates, San Mateo, CA for petitioner.

Glenn MacLeod, U.S. Department of Justice, Washington, DC, for respondent.

**RULING ON ENTITLEMENT**<sup>1</sup>

**Vowell**, Chief Special Master:

On July 28, 2014, Patricia Elliot filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*<sup>2</sup> [the "Vaccine Act" or "Program"]. The petition alleges that as a result of an influenza ("flu") vaccination on November 7, 2013, petitioner suffered adverse reactions resulting in "pain, difficulty obtaining restful sleep, and limited range of motion in her right shoulder." Petition at 9.

On October 28, 2014, respondent filed her Rule 4(c) Report ["Respondent's Report"], in which she concedes that petitioner is entitled to compensation in this case. Respondent's Report at 6. Specifically, respondent submits that "a preponderance of the evidence establishes that the injury to petitioner's right shoulder was caused-in-fact

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<sup>1</sup> Because this unpublished ruling contains a reasoned explanation for the action in this case, I intend to post this ruling and order on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to delete medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will delete such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all "§" references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2006).

by the administration of her November 7, 2013 flu vaccine.” *Id.* at 6. Respondent notes that petitioner’s injury is not due to factors unrelated to her vaccination. *Id.*

**In view of respondent’s concession and the evidence before me, I find that petitioner is entitled to compensation.**

**s/Denise K. Vowell**  
Denise K. Vowell  
Special Master